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bitter quarrel with the Republican leaders in both houses of Congress. For six years the Democrats controlled the Senate. For sixteen years they controlled the House of Representatives. There is left on the statute books no trace of any Democratic legislation during this whole period except the repeal of the laws intended to secure honest elections.

It is a little uncertain whether Mr. Hoar intends to include Johnson's four years in his total of thirty-two; but, leaving that aside, who that reads, and accepts without verification, this record of Democratic opportunity and inefficiency would suspect that during these thirty-two (or thirty-six) years the Democrats had the power to enact party measures — *i.e.*, controlled simultaneously the presidency and both houses of Congress — during precisely two years, 1893-95?

WILLIAM A. DUNNING.

*Actual Government as Applied under American Conditions.* By ALBERT BUSHNELL HART. New York, Longmans, Green and Co., 1903. — xlv, 504 pp.

This book is one which will arouse in the careful reader mingled feelings of satisfaction and disappointment. While the plan of the work is most excellent and the general execution leaves little to be desired, in clearness and accuracy of language and statement it falls far below the standard which the public have a right to expect from so prominent a writer.

The book is designed to fill a place not previously occupied by any of the numerous text-books upon American government. It is intended, the preface tells us, as "a college and upper high-school text-book" which shall not confine itself to a mere description of governmental organization, but shall present to the student American government — national, state and local — as a whole and in actual operation, including what it does as well as how it does it. Throughout the book these objects are kept in view, the emphasis at all times being upon practice rather than theory and upon the essential unity which underlies our governmental institutions rather than upon that division of powers between national government and states which occupies so large a place in most books on the subject.

The first one hundred and twelve pages of the book are devoted to a general discussion of the fundamental conditions and principles which lie at the base of American government; the physical features of the land, the character of the population, the personal rights of citizens

and aliens, the principles of the separation of powers and division of powers, written constitutions and their revision and amendment, suffrage and elections, the organization of political parties, including of course the caucus and nominating convention, the "machine," the "boss," and allied topics. The next fifty pages are devoted to state government, another fifty pages to local government, and a hundred pages to the national government. Having described how the governmental machinery is organized and how it works, the author devotes the remaining pages of the book to a detailed examination of the functions or operations of government, *i.e.*, to telling what the government actually does as distinguished from how it does it. The discussion of each large topic is preceded by a "brief account of how that particular agency or function came to be," and classified references to other works on American government are prefixed to each of the chapters, supplementing a general bibliography which is inserted at the beginning of the book.

A brief experience with this book in the class-room has led the reviewer to believe that at times theory has been unduly subordinated to practice. While, of course, the machinery of government is only a means to an end, a knowledge on the part of the student of both the fundamental features and many of the details of governmental organization is necessary if he is to understand clearly the actual operation of the system. To some extent the book fails, perhaps, to provide this necessary basis for the study of the government "in action," but of course this is a lack easily supplied by the teacher.

Severe adverse criticism is demanded by the all too frequent carelessness of language and statement, which at times degenerates into absolute inaccuracy and incorrectness. This is especially true of the earlier parts of the book, where propositions of constitutional law rather than of fact are often stated, and where one who is not a trained lawyer may easily go astray. An example of what is here referred to is found in the chapter devoted to The Individual and his Personal Rights. It is difficult to imagine a more loose, inaccurate and misleading discussion of the "privileges and obligations of citizenship" than is here found. It is said, for example; "In many respects the alien has the same duties and the same rights as the citizen; he must obey the laws and pay taxes, and all his rights he holds by temporary favor" (p. 19). This seems to say that, like the alien, the citizen holds his rights by temporary favor, not by constitutional grant, which is denied in the next sentence. If we substitute "but" for "and," the statement is still open to criticism, for the alien holds very substantial rights under

the constitution, rights of which the government may not deprive him so long as he is allowed to remain in the country. Again: "A great privilege is that of protection: no individual may take the property or injure the person of a citizen without a criminal responsibility" (p. 19). Obviously this is not a "privilege of citizenship" at all, but one which belongs to all persons alike, be they citizens, subjects or aliens. The same is true of other privileges enumerated in this section, as well as of the so-called "obligations of citizenship." As an example of the latter; "The citizen is held responsible to national, state and local laws" (p. 20). So is the alien. Without increasing the size of the book by a single line, a clear and simple account could be given of the fundamental constitutional rights of citizens and aliens and of their legal obligations, and occasion could be taken to emphasize the fact that in these modern days the importance of citizenship as a source of rights is far less than it was in the ancient world, when the person not a citizen was to a large extent not recognized as having rights — in other words, that the fundamental rights to life, liberty and property are to-day given to men as men and not as citizens.

It seems impossible to eliminate from the mind of the American historian the erroneous idea that "in the famous Dred Scott case it was held that a person of African descent could not become a citizen of the United States, or a citizen of a state, in the sense of the constitution of the United States" (p. 16). Inasmuch as only four members in a court of nine expressed any opinion upon this question, and one of them held that a free negro could be a citizen, it is difficult to understand the persistence of this mistake, unless it be due to the fact that those who make it have never examined the case itself.<sup>1</sup>

It is doubtful if the brief and not very clear discussion of sovereignty given in chapter iii will in any degree enlighten a student who approaches the subject for the first time. Clearly erroneous is the statement that "in England the ultimate legal power to make and alter constitutions rests in the peers of the realm and the constituencies of the House of Commons" (p. 38). It is also difficult to see how a student not already familiar with the fundamental principles of our national constitution can make anything out of the following statement: "The fundamental principle of our federal government is that the inherent sovereign powers in the community are normally exercised through the state governments, and therefore that any unrestricted power is left to the states and not to the Union" (p. 54). It

<sup>1</sup> A most excellent discussion and statement of what the case actually decided will be found in Thayer's *Cases on Constitutional Law*, vol. i, p. 496.

is fair to suppose that this is intended as a statement of the principle that, under the constitution of the United States, the states have all powers of government not denied to them, expressly or by implication, and that therefore any power not delegated exclusively to the national government or denied to the states is left with the states. In so far as the statement last quoted suggests that the states have any "unrestricted," *i.e.*, unlimited powers, it is clearly wrong. On the same page the statement that the division of powers between state and local governments is expressed in the state constitutions is certainly more than questionable. There is a tendency discernible to put it there, but this tendency is as yet far from general. In the description of the methods of amending the constitution of the United States, the unaccountable error is made of omitting absolutely any mention of the fact that the assent of the states may be given by means of conventions as well as by the legislative bodies.

What shall we say of the following statements concerning the fifteenth amendment to the federal Constitution? "The amendment provides that no *person* shall be deprived of the suffrage on account of race, color, or previous condition of servitude. By decision of the Supreme Court, this clause does not apply to Asiatics; and the states may, and three of them do, prohibit the voting of members of the Mongolian race" (p. 70). Would it not be better to state the provision of the amendment correctly, substituting "citizen" for "person"? The apparently arbitrary rule about Mongolians would then flow naturally out of the amendment, the simple fact being that Mongolians born abroad are aliens and cannot under the naturalization laws become citizens, and therefore are not protected against disfranchisement. Is it not also clear that a citizen of Mongolian descent — and there are such — is within the provisions of the amendment?

In discussing the provisions which have been imposed by Congress upon many of the states when admitting them into the Union, the author reaches the conclusion that "plainly, the states are not equal" (p. 119). This ignores the fact that in many well considered and therefore weighty *dicta* the Supreme Court has repeatedly stated that these conditions are not binding, and that all the states are and necessarily must be equal under the constitution. This being the state of affairs, plainly the question is an open one. A doubtful statement of the law is contained in the discussion of what the author calls the obligation of the states to surrender fugitives from justice. He assumes that "here the states must act" (p. 121), *i.e.*, the surrender must be made by state authorities. There seems little doubt that the clause of the constitu-

tion in question must receive a construction like that given to the similar clause relating to fugitive slaves, and that therefore the Congress of the United States may, if it wishes, provide a method for the surrender of fugitives from justice independent of the state authorities.

A careless error is contained in the statement that the limitation that "no state shall coin money" is only an implied and not an express prohibition (p. 124); also in the statement on the same page that the states are expressly prohibited from "depriving a citizen of the United States of citizenship." There is doubtless an implied prohibition of this kind, besides the general prohibition of the fourteenth amendment that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

Is not the statement on page 164, that "there is no evidence that the convention [of 1787] faced the question whether national courts could nullify [*i.e.*, pass upon the constitutionality of] national statutes," clearly unfounded? Certainly the brilliant work of Brinton Coxe on *Judicial Power and Unconstitutional Legislation* must have escaped Professor Hart's attention, or at least slipped his memory for the time being. The most that can be said is that perhaps the evidence is not conclusive that the convention intended to give the national courts this power, although the present writer is inclined to agree with Mr. Coxe that there are provisions in the constitution which were inserted for precisely this purpose.<sup>1</sup>

This by no means exhausts the list of careless and incorrect statements which the reviewer might give, did space permit; but enough has been said to show that much remains to be done before the book comes up to the standard of accuracy and clearness which ought to be found in such a work. To teach students to think clearly and express themselves accurately must always be among the more important duties of the teacher; and it must be confessed that there is much in this book which will not aid the teacher in his task, unless indeed it be made to serve as a warning example of what to avoid. In spite of these defects in execution, the book meets a real need of the teacher who is called upon to introduce the undergraduate mind to a wider knowledge of American government than that obtained in the usual course on "civics" given in the public schools; and it contains within the limits of its five hundred pages a vast amount of material, relating more especially to the actual operations of the government, that has hitherto not been in a form in which it could easily be used by the student. It is

<sup>1</sup> See in this connection Madison's Debates of the Constitutional Convention, under date of August 27.

to be hoped that in a future edition the book will be subjected to a thorough revision with a view to removing the blemishes referred to. When that is done, if it be done thoroughly, the book will fill satisfactorily a place not previously occupied by any other text book upon American government.

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*Financial History of the United States.* By DAVIS RICH DEWEY, Ph.D., Professor of Economics and Statistics, Massachusetts Institute of Technology. New York, Longmans, Green & Co., 1903. — xxxviii, 530 pp.

The general verdict upon this book must be not only favorable, but emphatically favorable. It is a careful, accurate, and comprehensive survey of the history of our federal finances. The student or investigator in this province will hereafter have to take his reckoning by the landmarks which Professor Dewey has erected. Whether viewed from the standpoint of painstaking and extensive research, or from the character of the judgments pronounced, or from the nice proportions in the presentation of material, it merits ungrudging approval. Prefixed to each chapter is a carefully analyzed bibliography of the material used in its preparation. Statistical tables are introduced generously throughout the text, and graphic diagrams of peculiar excellence appear at the close of the discussion of each period.

Of peculiar interest are the verdicts rendered upon moot points in our financial history. They all bespeak full acquaintance with the evidence. They betoken also the historical spirit, the judicial temper, and not infrequently a refreshing independence of view. Thus, for example, in the case of the continental paper money, the author's appreciation of colonial precedents and of the particular situation in which Congress was placed at the time, leads him virtually to absolve Congress from the responsibility for its issue, and to push back the final responsibility upon the legislatures of the thirteen states. A similarly novel view is taken of the panic of December, 1861. Over that event, hitherto, the apologists for Chase and the advocates of the banks have pointed towards each other the incriminating finger. The award of our author is that

the real explanation of the financial crisis of December, 1861, is not to be found either in errors of the treasury or in the selfishness of the banks,